



DEPARTMENT OF VETERANS AFFAIRS

8320-01

38 CFR Part 17

RIN 2900-AP68

Telephone Enrollment in the VA Healthcare System

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) adopts as final, without change, an interim final rule amending its medical regulations. Specifically, this rule allows veterans to complete applications for health care enrollment by providing application information, agreeing to VA's provisions regarding copayment liability and assignment of third-party insurance benefits, and attesting to the accuracy and authenticity of the information provided to a VA employee over the phone. This action makes it easier for veterans to apply to enroll and speeds VA processing of applications.

DATES: Effective Date: This rule is effective on [insert date of publication in the FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Mathew J. Eitutis, Acting Director, Member Services 3401 SW 21st St. Building 9 Topeka, KS 66604; 785-925-0605. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On March 16, 2016, VA published an interim final rule amending § 17.36(d)(1) of title 38, Code of Federal Regulations (CFR). 81 FR 13994. The amendment allows veterans to apply for enrollment in the VA healthcare system by telephone; in particular, it allows veterans to consent over the phone to pay any copayments the law requires for treatment or services and to assign insurance benefits to VA.

VA invited interested persons to comment on the interim final rule on or before May 16, 2016. We received two comments. One commenter expressed concern over medications provided to veterans with overseas service in the 1970s. The other sought VA assistance with a claim for VA benefits. Both of these comments are outside the scope of this rulemaking. We are, therefore, making no changes based on those comments.

Based on the rationale in the interim final rule and in this final rule, VA is adopting the interim final rule as final with no changes.

Administrative Procedure Act

The Secretary of Veterans Affairs determined there was good cause under 5 U.S.C. 553(b)(B) to publish this rule without prior opportunity for public comment. The Secretary concluded that failure to authorize verbal applications as soon as possible was contrary to the public interest because it prolonged delays in processing applications for enrollment in the VA healthcare system. We dispensed with the 30-day delay requirement for the effective date of a rule for good cause under 5 U.S.C. 553(d)(3). We anticipated that this regulation would be uncontroversial and believed

that any further delay in allowing VA to complete applications by telephone would be contrary to the public interest.

Effect of Rulemaking

The Code of Federal Regulations, as revised by this final rulemaking, represents the exclusive legal authority on this subject. No contrary rules or procedures are authorized. All VA guidance must be read to conform with this interim final rulemaking if possible or, if not possible, such guidance is superseded by this rulemaking.

Paperwork Reduction Act

Although this final rule contains provisions constituting collections of information, at 38 CFR 17.36(d)(1), under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3521), no new or revised collections of information are associated with this final rule. It amends an approved collection by allowing a new method for veterans to submit the requested information, but this change does not affect the burden on the public under the approved collection. The information collection requirements for 38 CFR 17.36(d)(1) are currently approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 2900-0091.

Regulatory Flexibility Act

The Secretary hereby certifies that this final rule does not have a significant economic impact on a substantial number of small entities as they are defined in the

Regulatory Flexibility Act, 5 U.S.C. 601-612. This final rule directly affects only individuals and does not directly affect small entities. Therefore, pursuant to 5 U.S.C. 605(b), this rulemaking is exempt from the initial and final regulatory flexibility analysis requirements of 5 U.S.C. 603 and 604.

Executive Order 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a “significant regulatory action,” requiring review by OMB, unless OMB waives such review, as “any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of \$100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President’s priorities, or the principles set forth in this Executive Order.”

The economic, interagency, budgetary, legal, and policy implications of this interim final rule have been examined, and it has been determined not to be a significant regulatory action under Executive Order 12866. VA's impact analysis can be found as a supporting document at <http://www.regulations.gov>, usually within 48 hours after the rulemaking document is published. Additionally, a copy of the rulemaking and its impact analysis are available on VA's Web site at <http://www.va.gov/orpm/>, by following the link for "VA Regulations Published From FY 2004 Through Fiscal Year to Date."

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$100 million or more (adjusted annually for inflation) in any one year. This final rule has no such effect on State, local, and tribal governments, or on the private sector.

Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance numbers and titles for the programs affected by this document are 64.007, Blind Rehabilitation Centers; 64.008, Veterans Domiciliary Care; 64.009, Veterans Medical Care Benefits; 64.010, Veterans Nursing Home Care; 64.011, Veterans Dental Care; 64.012, Veterans Prescription Service;

64.013, Veterans Prosthetic Appliances; 64.014, Veterans State Domiciliary Care; 64.015, Veterans State Nursing Home Care; 64.018, Sharing Specialized Medical Resources; 64.019, Veterans Rehabilitation Alcohol and Drug Dependence; 64.022, Veterans Home Based Primary Care; and 64.024, VA Homeless Providers Grant and Per Diem Program.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Gina S. Farrisee, Deputy Chief of Staff, Department of Veterans Affairs, approved this document on September 6, 2016, for publication.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Government contracts, Grant programs-health, Grant programs-veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Reporting and recordkeeping requirements, Travel and transportation expenses, Veterans.

For the reasons set out in the preamble, the interim final rule published in the Federal Register at 81 FR 13994 on March 16, 2016, is adopted as final without change.

Dated: September 6, 2016

Jeffrey Martin
Office Program Manager
Office of Regulation Policy & Management
Office of the Secretary
Department of Veterans Affairs

[FR Doc. 2016-21830 Filed: 9/9/2016 8:45 am; Publication Date: 9/12/2016]